Public Prosecution Service of Canada | Service des poursuites pénales du Canada

PUBLIC PROSECUTION SERVICE OF CANADA

Departmental Performance Report

2010-11

The Honourable Robert Nicholson
Minister of Justice and Attorney General of Canada

Canada

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Message from the Director of Public Prosecutions

I am pleased to present the *2010-2011 Departmental Performance Report* of the Public Prosecution Service of Canada. The PPSC is an independent prosecuting authority with a mandate to prosecute offences under federal jurisdiction in a manner that is fair, impartial, and objective, and to provide high-quality legal advice to investigative agencies.

Over the past year, the PPSC's prosecutors have argued a number of high-profile and complex cases, and have done so with diligence and professionalism. This report describes the PPSC's efforts in each of our program areas, including drugs, terrorism, war crimes, and regulatory offences. It also outlines the internal and external challenges we continue to face as an organization, and sets out the steps we have taken to meet those challenges.

The PPSC plays a key role in the Canadian criminal justice system. Its success is due to the efforts of PPSC staff, who perform their duties guided by the core values of respect, integrity, excellence, and leadership.

Brian Saunders
Director of Public Prosecutions

SECTION I - ORGANIZATIONAL OVERVIEW

Raison d'être

The mandate of the Public Prosecution Service of Canada (PPSC) is set out in the *Director of Public Prosecutions Act*[1]. The *Act* calls on the PPSC to provide prosecutorial advice to law enforcement agencies and to prosecute matters on behalf of the Crown that are within the jurisdiction of the Attorney General of Canada. The PPSC's main objective is to prosecute offences under federal jurisdiction in a manner that is free of any improper influence and that respects the public interest.

The PPSC plays an integral role in the criminal justice system, promoting due process and working to safeguard the rights of all those who come into contact with the system. The benefits to Canadians from the work carried out by the PPSC include:

- provision of legal advice to investigative agencies and federal government departments on the criminal law implications of investigations and prosecutions;
- appropriate enforcement of federal laws through principled and independent decisions by prosecutors; and
- confidence in the administration of justice through professionally conducted prosecutions that result in a judicial determination on the merits of the evidence.

Responsibilities

The PPSC undertakes key duties in the criminal justice system. These duties, to be carried out in an objective and non-partisan manner, are:

- **The duty to act independently in making decisions related to criminal prosecutions** This constitutional principle recognizes that decisions to prosecute, stay proceedings or launch an appeal must solely be made in accordance with legal criteria. The public interest must be taken into account, but not considerations of a partisan political nature.
- **The duty to act independently in providing prosecution-related legal advice** While prosecution-related advice to a law enforcement or investigative agency will take into account the agency's legal and policy setting, prosecutors cannot be drawn into its policy making and program administration such that their ability to provide impartial, accurate and effective legal advice is undermined.

Areas of Prosecution

The PPSC prosecutes cases under federal statutes that are referred to it by the Royal Canadian Mounted Police (RCMP), other federal investigative agencies, as well as provincial and municipal police forces.

1 The PPSC was created on December 12, 2006, when Part 3 of the *Federal Accountability Act* received royal assent bringing the *Director of Public Prosecutions Act* into force. *Office of the Director of Public Prosecutions* (ODPP) is the PPSC's legal title, whereas *Public Prosecution Service of Canada* (PPSC) is its applied title.

It is responsible for the prosecution of all drug offences under the *Controlled Drugs and Substances Act*, regardless of whether a federal, provincial, or municipal police agency lays the charges, in all provinces except Quebec and New Brunswick. In the latter two provinces, the PPSC is responsible for drug charges laid by the RCMP only.

In all provinces and territories, the PPSC prosecutes offences under federal statutes aimed at protecting the environment and natural resources as well as the country's economic and social health (e.g., *Fisheries Act*, *Income Tax Act*, *Copyright Act*, *Canada Elections Act*, *Canadian Environmental Protection Act*, *Competition Act*, *Customs Act*, *Excise Act*, and *Excise Tax Act*), offences involving fraud against the government, capital market fraud offences, along with conspiracies and attempts to violate any of these statutes. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute. However, the PPSC is called upon to regularly provide prosecution services under approximately 60 of those statutes.

In the three territories, the PPSC prosecutes all *Criminal Code* offences as well as offences under all other federal legislation and certain territorial statutes. In the provinces, the PPSC has jurisdiction to prosecute a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime, and fraud. Under arrangements with the provinces, the PPSC may prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces charges within federal jurisdiction.

Where required, the PPSC also provides prosecution-related advice to investigators for all types of prosecutions. Such advice continues to be crucial to ensure that investigative techniques and procedures are consistent with evolving rules of evidence and protections under the *Canadian Charter of Rights and Freedoms*. The advantage of early prosecutorial advice is that it reduces the risk that operational decisions, such as those about methods of obtaining evidence, will detrimentally affect the admissibility of evidence at trial or the constitutional rights of Canadians.

Organization

The PPSC is a national prosecution service with a network of offices across Canada. As of March 31, 2011, the PPSC had 958 employees, the majority of whom were staff prosecutors, paralegals, Crown Witness Coordinators[2] in its northern offices and the support staff who assist them. The remainder included other professionals, such as senior managers, administrators and corporate services staff.

The PPSC also employs the services of private sector legal agents in locations where it does not have an office or where it is impractical or otherwise not cost-effective for staff counsel to handle cases. The work of agents is overseen by the PPSC's Agent Affairs Program. It includes a centralized support unit at headquarters, as well as agent supervision units located

2 The role of Crown Witness Coordinators is to explain the criminal justice process to victims and witnesses, prepare them to testify in court and, where required, bridge the cultural gap between prosecutors, who are generally from southern Canada, and victims and witnesses from the North.

in each regional office, which are responsible for the day-to-day management of agents. The PPSC currently retains some 224 standing agent firms across Canada, representing approximately 535 individually appointed counsel.

In 2008-09, the PPSC introduced fixed-term agreements for agents, replacing indeterminate appointments. Under this regime, any law firm or lawyer interested in becoming an agent can apply for a five-year term when an opening occurs. The PPSC's transition to fixed-term agreements is progressing in accordance with the five-year plan. In 2010-11, 71 fixed-term agreements were entered into with agents.

Strategic Outcome and Program Activity Architecture (PAA)

The PPSC has one strategic outcome as illustrated in the following chart, which also presents the PPSC's framework of activities.

Strategic Outcome
Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner
Program Activity
Drug, *Criminal Code*, and terrorism prosecution program
Regulatory offences and economic crime prosecution program
Internal Services

Organizational Priorities

Priority	Type
Prosecuting offences under federal law: A central element of the PPSC's legal mandate is to prosecute matters on behalf of the Crown that are within the jurisdiction of the Attorney General of Canada	Ongoing
Status[3]: Met all	
• The PPSC handled 78,817 litigation files in 2010-11, in a manner that was independent of any improper influence and in the public interest[4]. These files include prosecutions in four broad areas: drug offences; crimes that threaten national security, such as terrorism and war crimes: all *Criminal Code* offences in the three Northern territories, and economic crime and regulatory offences.	

Priority	Type
Providing legal advice to investigative agencies: Prosecution-related advice during police investigations, particularly large-scale and complex investigations, is crucial to ensure that investigative techniques and procedures conform with the evolving rules of evidence and the protections found in the *Canadian Charter of Rights and Freedoms*.	Ongoing
Status: Met all	
• PPSC counsel provide advice on all types of prosecutions, covering issues such as the disclosure of evidence required by law, and obtaining key evidence gathering orders, such as wiretap authorizations and orders to produce evidence. The operational priority for prosecution-related advice provided during investigations is primarily focused on highly complex and mega cases. • The PPSC's inaugural survey of investigative agencies carried out in 2008-09 and published in 2009-10, revealed that respondents were unanimous in confirming the usefulness of PPSC prosecutors' legal advice on matters of a general nature, as well as on particular investigation files. Respondents repeatedly commented that legal advice can help investigators determine appropriate charges, assess the admissibility of evidence to support those charges, draft judicial authorizations, prepare for and testify in court, and avoid errors that can negatively impact on the introduction of evidence.	

3 **Performance/Priority Status Legend**

Exceeded: More than 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding Report on Plans and Priorities (RPP) was achieved during the fiscal year.

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Somewhat met: 60 to 79 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Not met: Less than 60 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

4 See performance analysis provided in Section II, Strategic Outcome.

Priority	Type
Contributing to strengthening the criminal justice system: The PPSC contributes to strengthening the criminal justice system across Canada and improving its efficiency	Ongoing
Status: Met all	
• The PPSC continued to participate fully in federal / provincial / territorial (FPT) forums, and contributed to law enforcement efforts at the international level, in order to address criminal justice issues of common interest. It also contributed to improving the criminal justice system by providing legal advice during investigations, by providing legal training to prosecutors and law enforcement investigators and, where requested, by providing advice on amendments drafted by the Department of Justice Canada to federal statutes relevant to the criminal justice system. • Collaboration with key stakeholders in the criminal justice system is an ongoing priority for the PPSC. The FPT Heads of Prosecution Committee is a forum for federal and provincial prosecution services to address common issues and challenges. The Committee continues to promote inter-jurisdictional cooperation and assistance on such operational issues as quality assurance, organized crime prosecutions, concurrent jurisdiction, proceeds of crime, expert witnesses, performance measurement and prosecutor training and security.	

Priority	Type
Performance measurement framework: Sound performance measurement processes and tools help manage operational performance and enhance the planning process	Previously committed to
Status: Mostly met	
• The PPSC made further refinements to its national timekeeping protocol to ensure that its timekeeping practices accurately reflect activities and time usage. The protocol is critical to ensuring that complete and reliable timekeeping information is available to guide decision-making, overtime compensation and cost recovery. In addition, the PPSC continued to simplify and restructure case management data on specific activities that relate to criminal, regulatory and economic prosecutions. • The PPSC is working towards further refining its analysis of performance measures, including the analysis of trends in case volumes, complexity and distribution.	

Priority	Type
Recruitment and retention: The PPSC values and appreciates the contribution of its employees and seeks to offer rewarding careers with diverse opportunities and intellectually challenging work	Previously committed to
Status: Mostly met	
• During 2010-11, the focus of this priority evolved from recruitment and retention to "Engagement and Employee Development". It supports accountability, recruitment, retention, leadership, employee development and outreach goals. One of the first initiatives developed under this new focus was the LA Group Project - Ensuring Excellence. Its goal is the development of a comprehensive and integrated approach linking organizational and talent management initiatives, such as recruitment, learning and development, advancement and overall management of prosecutors. Work will continue in 2011-12 to further expand this initiative. • As part of the PPSC's *People Management Strategy (2009-2014)*, the PPSC also established the Employment Equity and Diversity Committee and developed and implemented the PPSC employment equity self-identification form. The *Strategy* supports ongoing efforts to attract and retain talent and to ensure a knowledgeable and engaged workforce.	

Priority	Type
Security: Ensuring the safety and security of its employees is of paramount importance to the PPSC. Due to the nature of their work, PPSC employees face the risk of direct and indirect threats to their safety	Previously committed to
Status: Mostly met	
• As required by the new TB Policy on Government Security, the PPSC has begun the development of a security plan that sets out approaches to managing security risks and outlines strategies, goals, priorities and timelines for improving security within the PPSC. • The Employee Protection Program is in its final planning stages. A framework for implementation has been developed and a Security Preparedness Officer has been appointed to coordinate the implementation phase during 2011-12.	

Priority	Type
Knowledge Management: Knowledge management, including continuous learning, contributes to an effective and efficient work force which is essential to the successful delivery of our mandate	Previously committed to
Status: Mostly met	
• The Law Practice Management and Information Management and Technology directorates continued to implement electronic systems to facilitate the collection and sharing of legal information and knowledge throughout the organization. • Work will continue in 2011-12 to maintain the many legal knowledge databases used as reference by PPSC prosecutors, paralegals and legal assistants.	

Risk Analysis

Operational Trends

The PPSC's total number of litigation files for 2010-11 reached 78,717[5], compared to 76,292 handled in 2009-10. This includes 48,504 files opened during 2010-11 as well as 30,313 files carried over from previous years. An examination of trends shows that the average annual percentage increase in the PPSC's caseload of new files since its establishment in December 2006, is 2.22%.

Files Involving Drug-Related Offences 72% (58,117)
Files Involving *Criminal Code* Offences 13% (10,218)
Files Involving Regulatory Offences and Economic Offences 12% (9,863)
Files Involving Proceeds of Crime and Offence-Related Property 3% (2,176)

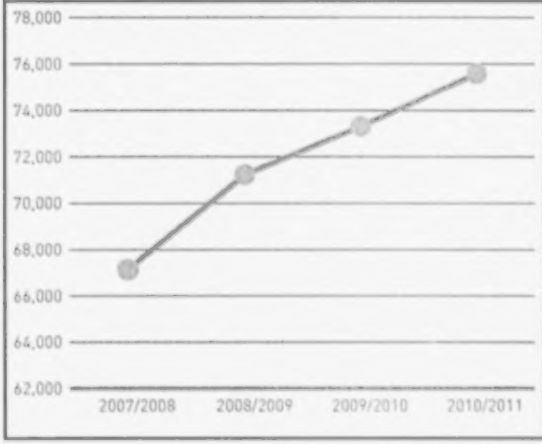
5 The total number of files shown in the pie chart exceeds 78,717 files since the percentages relate to offence types. Individual litigation files often include multiple offences falling under more than one offence type.

Approximately 88% of all litigation files were within the drug, *Criminal Code* and terrorism offences prosecution program, whereas approximately 12% involved files within the regulatory offences and economic crime prosecution program.

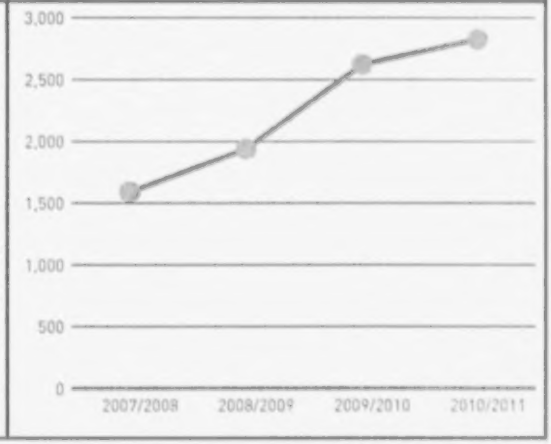
The PPSC does not control the number or type of cases referred to it for prosecution by the police and investigative agencies that lay charges under federal statutes. Its workload is largely based on these agencies' decisions regarding investigative priorities, tactics and resource allocations. As a result, increases in enforcement resources affect the nature and volume of the PPSC's caseload. Similarly, changes in police tactics to focus on the upper echelons of organized crime groups rather than on individuals in the lower ranks will affect the complexity, duration and cost of prosecutions.

The PPSC uses a risk assessment grid based on the complexity of litigation files. It is revising this grid to include a component on roles and responsibilities to assist in the management of risk. The graphs below illustrate the increase in the number of files handled by the PPSC in two broad complexity categories over the last four years. During this period, files in the "Low" and "Moderate" category increased by 12.6%, while files in the "High" and "Mega" category increased by 77.4%.

Number of "Low" and "Moderate" Complexity Files over Four Years (2007-2008 to 2010-2011) (12.6% increase)



Number of "High" and "Mega" Complexity Files over Four Years (2007-2008 to 2010-2011) (77.4% increase)



High complexity and mega cases absorb a disproportionate share of the PPSC's resources. In many instances, a single mega case can absorb more prosecutorial resources than several hundred low complexity cases. For example, drug mega cases and drug cases of high complexity handled by staff prosecutors represented only 2.13% of the litigation caseload in 2010-11 but 35.4% of the drug prosecution-related litigation time recorded by PPSC staff counsel and paralegals. This demonstrates how a small increase in the number of organized crime cases in response to strengthened law enforcement efforts across Canada can lead to a significant increase in the demand for prosecutorial resources.

External and Internal Influences Facing the PPSC

The PPSC is subject to a variety of external and internal influences, described below.

International crime networks: The globalization of crime networks poses significant dangers to national and global security. These networks engage in such activities as drug trafficking, money laundering, trafficking in human beings, terrorism, and telemarketing fraud. This global reality makes it imperative for the PPSC and investigative agencies to work effectively with international partners to address the serious threats posed by international crime networks.

In 2010-2011, the PPSC continued to work with international bodies such as the International Association of Prosecutors, the Heads of Prosecuting Agencies Conference, the International Network to Promote the Rule of Law, the United Nations Office on Drugs and Crime and the *Centro de Estudios de Justicia de las Americas* (based in Santiago, Chile). At home, the PPSC has taken the lead in establishing crimorg.ca, a web-based resource for federal and provincial prosecutors involved in prosecuting criminal organizations.

Challenging conditions in the North: PPSC prosecutors and Crown Witness Coordinators assigned to the North face a unique set of challenges. These include frequent travel to small isolated communities and extended absences from their homes and families; routine exposure to the traumatic experiences of victims and witnesses due to high rates of violent crime and victimization; and communication difficulties with victims and witnesses, stemming from language and cultural barriers.

Despite these challenges, work in the North offers many professional and personal opportunities for staff prosecutors. Convinced that the opportunities that Northern prosecutions provide were not widely known, the PPSC launched a targeted recruitment strategy in February 2010. This included public notices aimed at attracting candidates to the unique environment that the North represents and the positive experiences that can be gained from working and living there.

Resourcing issues: The Government has imposed a freeze on departmental operating budgets, thereby requiring federal organizations to fund salary increases and other costs from reallocations within their current budget levels. Accordingly, the PPSC will have to realign budgetary resources to cover its total salary requirements.

In addition, the PPSC is faced with the challenge of developing a uniform approach for recovering costs from federal departments and investigative agencies for prosecutions of regulatory offences.

Workforce issues: The first collective agreement for lawyers in the federal public service was entered into in 2009-10. The PPSC made the necessary adjustments in order to effect a smooth transition to a unionized environment for prosecutors.

Competition for scarce human resources: Some regional offices continued to face recruitment and retention challenges in 2010-11 due to the fact that the salaries paid to provincial prosecutors exceed those paid to PPSC lawyers. The PPSC undertook focused

recruitment efforts, as well as post-secondary recruitment activities to promote the PPSC as an employer of choice. It launched recruitment strategies focused on prosecutor positions, primarily in the North. The campaigns were successful in identifying both candidates for appointment as well as a pool of candidates which can be used for future staffing needs.

Security and business continuity: Due to the nature of their work, PPSC employees may be exposed to threats and intimidation. The PPSC is establishing an Employee Protection Program to help prevent and respond to threats and incidents of intimidation against employees. In addition, Business Continuity Plans have been developed for each office to ensure the continued delivery of services in the event of a disruption of operations as a result of an emergency.

Summary of Performance

2010-11 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
172.7	172.9	146.3

2010-11 Human Resources (full-time equivalents—FTEs)

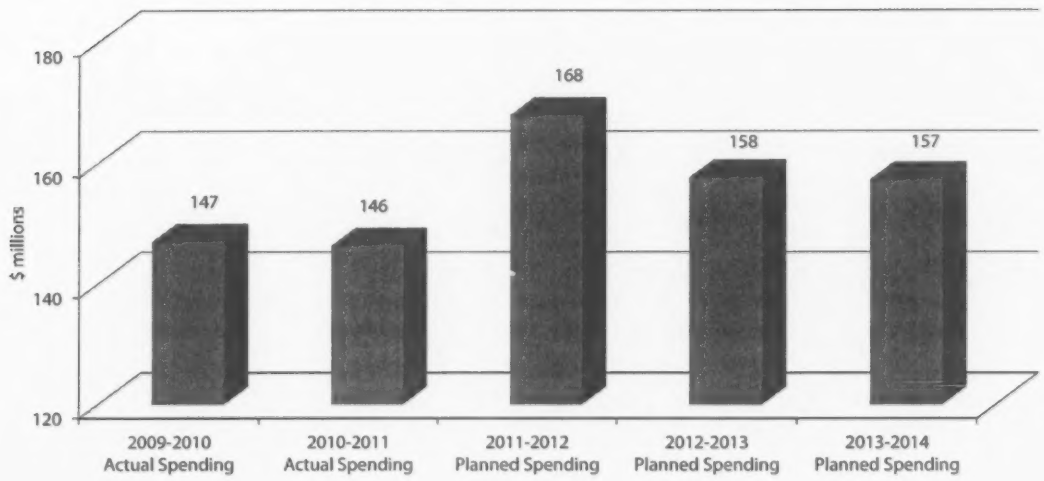
Planned	Actual	Difference
940	876	64

Program Activity	2009-10 Actual Spending ($ millions)	2010-11[6] ($ millions)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Program Activity #1: Drug, *Criminal Code*, and terrorism prosecution program	108.1	118.9	130.2	130.5	111.9	Social Affairs: A Safe and Secure Canada
Program Activity #2: Regulatory offences and economic crime prosecution program	17.8	16.4	17.3	17.3	13.1	
Program Activity #3: Internal Services	21.1	23.6	25.2	25.1	21.3	
Total	**147.0**	**158.9**	**172.7**	**172.9**	**146.3**	

6 Commencing in the 2009-10 Estimates cycle, the Program Activity: Internal Services is displayed separately from other program activities. As well, the resources falling under Internal Services are no longer distributed among the remaining program activities as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Expenditure Profile

Spending Trend



The significant changes are as follows:

- The main increases in the planned spending for 2011-12 from the previous years' actual spending are related to additional funding for the relocation of offices, higher estimated amounts for employee benefit plans, and the carry forward amount under the operating budget regime.
- The decrease in planned spending for 2012-13 is mainly due to the loss of temporary funding and for the relocation of offices and the carry-forward amount.

Estimates by Vote

For information on the PPSC's organizational votes and statutory expenditures, please see the Public Accounts of Canada 2010 (Volume II). An electronic version of the Public Accounts is available on the Public Works and Government Services Canada website[7].

7 See Public Accounts of Canada 2010, http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html.

SECTION II - ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

The PPSC has one Strategic Outcome: *Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner.* It has identified three performance indicators to monitor the extent to which this outcome is achieved in the conduct of its prosecutorial duties, namely, the number of judicial stays for abuse of process, of successful malicious prosecution lawsuits, and of substantiated complaints regarding the PPSC's independence, impartiality or fairness.

Performance Indicators	Targets	2010-11 Performance
• Number and nature of judicial stays for abuse of process based on the conduct of a federal prosecutor.	• Zero	• Zero
• Number and percentage of successful malicious prosecution lawsuits.	• Zero	• Zero
• Number and nature of substantiated complaints regarding the ODPP's independence, impartiality or fairness.	• Zero	• Zero

Judicial stays for abuse of process involve a disposition where the court does not allow a prosecution to proceed because of objectionable police or prosecutorial conduct and/or a violation of the rights of the accused.

Plaintiffs suing Crown prosecutors for malicious prosecution must prove, among other matters, that the prosecution was undertaken without reasonable and probable cause, and was motivated by malice or a primary purpose other than that of carrying the law into effect.

The nature of complaints regarding the PPSC's independence, impartiality or fairness may include, but are not limited to, expressions of dissatisfaction with a PPSC service, procedure, policy or practice, or with the conduct of a PPSC employee or a Crown agent. Any complaints received by Chief Federal Prosecutors are investigated and responded to by regional offices and the Office of the Corporate Counsel.

The PPSC achieved its performance targets with respect to its Strategic Outcome, as indicated by the fact that no instances of these indicators have occurred during the period under review, or during any year since its creation.

Program Activities

The role of a prosecutor is not to win a conviction at any cost but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of the accused. Hence, the performance indicators and results for both the Drug, *Criminal Code* and Terrorism Prosecution Program (PA #1) and the Regulatory Crime

and Economic Prosecution Program (PA #2) are based on the extent to which prosecutions result in a determination on the merits of the evidence.

A case is decided on its merits when:

- a judge or jury determines the guilt or innocence of an accused person after a trial;
- a judge determines after a guilty plea that a conviction is appropriate; or
- a Crown prosecutor stays or withdraws a charge as a result of an assessment that the case does not meet the test for prosecution, or as result of a plea of guilty being entered to a serious charge rendering proceedings on a less serious charge redundant.

Cases not decided on the merits are those that are stayed or quashed by the Court, and for which, as a result, there is no outcome decided by a judge or jury based on the evidence of guilt or innocence. A judicially imposed stay will generally mean discontinuance or permanent suspension of the proceedings.

The following pages describe the PPSC's three Program Activities, as well as results achieved and performance highlights during 2010-11.

Program Activity #1: Drug, *Criminal Code* and terrorism prosecution program

This program supports the protection of society against crime through the provision of legal advice and litigation support during police investigations, and the prosecution of:

(1) all drug offences under the *Controlled Drugs and Substances Act* and any related organized crime offences throughout Canada, except in Quebec and New Brunswick, where the PPSC prosecutes such offences only where charges are laid by the RCMP;

(2) proceeds of crime offences;

(3) pursuant to understandings with the provinces, *Criminal Code* offences where they are related to drug charges;

(4) all *Criminal Code* offences in the three territories;

(5) terrorism offences; and

(6) war crimes and crimes against humanity offences.

This program activity also involves the promotion of federal/provincial/territorial cooperation on criminal justice issues of mutual concern.

2010-11 Financial Resources ($ millions)			2010-11 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending[8]	Planned	Actual	Difference
130.2	130.5	111.9	625	613	12

Expected Results	Performance Indicators	Targets	Performance Summary		
Litigation files that are prosecuted are decided on merit	% of all litigation files that are decided on merit (i.e., by most serious outcome of guilty plea (other / lesser offence), conviction, conviction (other / lesser offence), discharge, acquittal)	• Not applicable	**Decisions**	**# of files**	**% of total files**
			Guilty plea	16,957	53.5%
			Guilty plea (other/ lesser offence)	1,029	3.3%
			Conviction	3,276	10.3%
			Conviction (other/ lesser offence)	95	0.3%
			Withdrawal	6,026	19.0%
			Stay of proceedings (Crown)	3,419	10.8%
			Discharge	263	0.8%
			Acquittal	619	2.0%
			Total	**31,684**	**100%**
Disposition of cases that are not decided on merit	% of litigation files not decided on merit	• Not applicable	**Decisions**	**# of files**	**% of total files**
			Stay of proceedings (Court)	335	95.2%
			Quashed	17	4.8%
			Total	**352**	**100%**

Performance Summary and Analysis of Program Activity

Drug prosecutions – The PPSC handled 58,117 prosecution files related to offences under the *Controlled Drugs and Substances Act*. Of these, 24,245 files were carried over from previous years, and 33,872 files were new. These files represented 72% of the files that the PPSC prosecuted. Drug prosecutions ranged from cases of simple possession of a few grams of marihuana to complicated schemes to import kilograms of cocaine or to export

8 The major variances between the total authorities and the actual spending are related to the $13M in frozen funds which are obligated to lapse at year-end and $5.6M in unused appropriations (i.e., lapsed funds) from the operating budget.

methamphetamine made in a clandestine laboratory. As a result, some cases were relatively straightforward, while others raised complex legal issues and required weeks, and sometimes months, of testimony. In 2010-11, approximately 33,000 of all drug prosecution files were handled by agents.

Organized crime – The RCMP and other police forces are increasingly focusing resources on organized crime. These investigations are usually complex. As a result, the PPSC is often called upon to work closely with the police during the investigative stage. This is particularly true of mega cases, that is, prosecutions of extraordinary scope and complexity that can require the full-time assignment of several prosecutors for lengthy periods. In 2010-11, the PPSC prosecuted 527 cases related to organized criminal activity. While this represented approximately only 2.28 per cent of the number of files prosecuted during the year, the time spent on them amounted to almost 13.15 per cent of total time recorded by PPSC counsel.

Proceeds of crime and offence-related property – As revenue generating crimes, drug offences continued to represent most of the offences that produced proceeds of crime or property used to commit crime ("offence-related property"). In 2010-11, the PPSC handled 2,176 cases involving one of these offences (1,296 were carried over from previous years and 880 were new). The proceeds at issue ranged from money used to buy drugs from an undercover officer to real estate bought with the proceeds of crime or used to produce drugs. A total of $35.6 million worth of proceeds of crime and offence-related property was forfeited during 2010-11.

Anti-terrorism – The Attorney General of Canada has concurrent jurisdiction with provincial attorneys general to prosecute terrorism offences. In 2010-11, the PPSC continued to strengthen its approach on national security prosecutions. Regional Terrorism Prosecutions Co-ordinators were appointed in each region of Canada. A national co-ordinator was also appointed. These individuals make up the Terrorism Prosecutions Co-ordination Committee, which works on issues of concern in terrorism prosecutions. At the time of publication, two terrorism-related prosecutions were ongoing. In August 2010, charges were laid against three individuals in Ottawa and in March 2011, unrelated charges were laid against a single individual in Brampton, Ontario.

War crimes and crimes against humanity – The PPSC has the responsibility of prosecuting offences under the *Crimes Against Humanity and War Crimes Act*. The PPSC's first prosecution under the *Act* resulted in the conviction of Désiré Munyaneza of genocide, crimes against humanity and war crimes. Mr. Munyaneza received a life sentence on October 29, 2009. An appeal is ongoing. A second case, *R. v. Mungwarere*, concerns a Rwandan national residing in Windsor, Ontario who was charged in 2009 with genocide. Additional charges of war crimes and crimes against humanity were added in 2010. A trial date of April 2, 2012 has been set. The accused, Jacques Mungwarere, remains in custody.

Prosecutions in Canada's North – In 2010-11, PPSC prosecutors handled 10,023 files in the territories, of which 9,109 involved *Criminal Code* offences. As in the past, a large number of charges involved family violence and sexual assault. The Northern regional offices also

handled a total of 33 homicide files, 19 of which were carried over from the previous fiscal year. As well, Northern prosecutions involved 529 *CDSA* offences, 349 regulatory offences and 366 territorial offences.

Lessons Learned

In 2010-11, the PPSC participated in a Treasury Board-mandated horizontal evaluation of the Integrated Proceeds of Crime Initiative, which was coordinated by Public Safety Canada. The evaluation found that the underlying objectives of the Initiative remain relevant today, and respond to Canada's national and international commitments against organized crime. The evaluation also found that the Initiative has had an impact on organized crime and crime groups through seizures, forfeitures and convictions.

At the same time, the evaluation concluded that the Initiative is not as efficient or effective as it could be, and that it requires closer communications and collaboration among its partners, as well as better performance monitoring. The PPSC supports the recommendations of the evaluation and will work with the RCMP to renew the 1997 Memorandum of Understanding between the two organizations in order to clarify their respective roles and responsibilities.

The PPSC also participated in a Treasury Board-mandated horizontal evaluation of the Anti-Money Laundering/Anti-Terrorist Financing Regime, which was coordinated by the Department of Finance Canada. The study concluded that Canada's efforts in this area continue to be needed to combat the threat from money laundering and terrorist financing, which has not diminished since the Regime's implementation in 2000. The study further recommended that a number of issues, including inconsistencies in performance data, be addressed to improve the Regime's compliance with international commitments. The PPSC will work with its partners to further consider and address the issues identified in the evaluation.

In January 2011, the PPSC held a two-day training session for Crown Witness Coordinators, specifically to address issues such as best practices in providing support to victims and witnesses, vicarious trauma, personal safety and preparedness, and Foetal Alcohol Spectrum Disorder.

Program Activity #2: Regulatory offences and economic crime prosecution program

This program supports the protection of society against crime through the provision of legal advice and litigation support to police and federal investigative agencies, and the prosecution of:

(1) offences under federal statutes aimed at protecting the environment and natural resources as well as the country's economic and social health (e.g., *Fisheries Act*, *Income Tax Act*, *Copyright Act*, *Canada Elections Act*, *Canadian Environmental Protection Act*, *Competition Act*, *Customs Act*, *Excise Act*, and *Excise Tax Act*);

(2) offences involving fraud against the federal government;

(3) capital market fraud offences; and

(4) conspiracies and attempts to violate any of these statutes.

This program also includes the recovery of outstanding federal fines and the promotion of federal/provincial/territorial cooperation on criminal justice issues of mutual concern.

2010-11 Financial Resources ($ millions)			2010-11 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending[9]	Planned	Actual	Difference
17.3	17.3	13.1	187	146	41

Expected Results	Performance Indicators	Targets	Performance Summary		
Litigation files that are prosecuted are decided on merit	% of all litigation files that are decided on merit (i.e., by most serious outcome of guilty plea (other / lesser offence), conviction, conviction (other / lesser offence), discharge, acquittal)	• Not applicable	**Decisions**	**# of files**	**% of total files**
			Guilty plea	1,217	61.2%
			Guilty plea (other/ lesser offence)	3	0.2%
			Conviction	389	19.6%
			Conviction (other/ lesser offence)	4	0.2%
			Withdrawal	162	8.2%
			Stay of proceedings (Crown)	152	7.6%
			Discharge	4	0.2%
			Acquittal	55	2.8%
			Total	**1,986**	**100%**
Disposition of cases that are not decided on merit	% of litigation files not decided on merit	• Not applicable	**Decisions**	**# of files**	**% of total files**
			Stay of proceedings (Court)	11	100.0%
			Quashed	0	0.0%
			Total	**11**	**100%**

9 The major variance between the total authorities and actual spending is due to unused appropriations (i.e., lapsed funds) of $1.2M related to the Integrated Market Enforcement Teams (IMET) Initiative and an increase of $3M in vote netted revenues.

Performance Summary and Analysis of Program Activity

Regulatory and economic offences comprise the second largest category of offences prosecuted by the PPSC, after drug prosecutions, and may involve complex and resource-intensive prosecutions. As a result, several regional offices have established specialized teams of prosecutors to deal with specific types of regulatory and economic prosecutions. In 2010-11, the PPSC handled 9,863 files under this program activity. Over $22 million in fines and surcharges and remedial and preventative orders that enhance public and environmental health, safety and security were imposed by the courts in relation to these offences.

Environmental offences – In 2010, Syncrude Canada Ltd. was found guilty of offences under Alberta provincial legislation and the federal *Migratory Birds Convention Act* arising out of the deaths of 1,600 ducks in a Syncrude tailings pond. The Court imposed a sentence reflecting a plea negotiated between the Crown and the defence, and consisting of a global penalty of $3 million that included fines of $800,000 and another $2.2 million for a variety of initiatives designed to benefit migratory and shore birds in Alberta. A group of prosecutors at the Alberta Regional Office with expertise in environmental offences handled this prosecution.

***Canada Labour Code* offences** – In October 2009, a boiler at a plant that heats many downtown Ottawa buildings, including those on Parliament Hill, exploded, killing an engineer working at the plant. After an investigation, charges were laid under the *Canada Labour Code* against Public Works and Government Services Canada. The PPSC has carriage of this prosecution, which will continue into 2011-12.

Fisheries offences – In 2010-11, the PPSC handled 2,189 files dealing with fisheries-related offences. These stem from the mandate of Fisheries and Oceans Canada to manage Canadian fisheries. The Atlantic and the British Columbia regional offices each have a team of counsel devoted full-time to regulatory prosecutions, with fisheries offences accounting for the greater part of their workload.

Competition law – A group of PPSC prosecutors provides prosecution services under the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act* which are administered and enforced by the Commissioner of Competition, who oversees the Competition Bureau. The PPSC advises at the investigative stage on Competition Bureau files that may lead to prosecutions.

In 2010-11, the PPSC advised on 60 investigations and conducted 19 prosecutions, appeals and related proceedings, primarily related to alleged violations of the *Competition Act*. PPSC counsel also represented the Commissioner in her defence of a constitutional challenge of s.11 of the *Act*.

In 2010, the Commissioner and the Director of Public Prosecutions entered into a memorandum that sets out their respective organizations' roles and responsibilities at the investigative and prosecution stages of a case.

Revenue offences – The PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency. Most of the prosecutions under the *Income Tax Act* involve tax evasion offences. Specialized PPSC prosecutors provide advice at the investigative stage and conduct prosecutions. For example, the Ontario Regional Office has established a revenue prosecutions unit to deal with its volume of prosecutions in this area. In 2010-11, the PPSC handled a total of 584 files under the *Income Tax Act*, and concluded 286 prosecutions.

Capital market fraud offences – PPSC counsel assigned to Integrated Market Enforcement Teams (IMETs) work with members of the RCMP and other investigators and subject-matter experts responsible for the investigation of serious capital market fraud cases under the *Criminal Code*. The IMETs operate in Vancouver, Calgary Toronto, and Montreal. PPSC counsel provide pre-charge and general legal advice and support to the IMETs, as well as training. In their role as legal advisors, PPSC counsel were consulted on 33 investigations in 2010-11.

The PPSC also prosecutes IMET cases where provincial attorneys general decline to do so, or where they seek the PPSC's participation. PPSC prosecutors were involved in two significant IMET-related prosecutions in 2010-11. One was co-counsel in the prosecution of Vincent Lacroix, former president of the Norbourg investment firm, and his five associates. A PPSC team also conducted the prosecution of six corporate officers and executives of Royal Group Technologies, who were acquitted.

Charges have been laid in four other investigations of alleged capital market fraud in British Columbia, Quebec and Nova Scotia. Those matters are currently before the courts. The PPSC has carriage of three of the prosecutions. The fourth is being prosecuted by the British Columbia prosecution service.

Corruption of foreign public officials – The PPSC is responsible for the prosecution of offences under the *Corruption of Foreign Public Officials Act (CFPOA)*. The PPSC also provides pre-charge advice to the two RCMP units dedicated to the investigation of alleged offences under this act. The *CFPOA* was enacted to implement the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was signed by Canada in 1997. The PPSC was part of the team which represented Canada before the OECD during the evaluation process. There is currently one ongoing *CFPOA* prosecution, and pre-charge advice is being provided to the RCMP on a number of ongoing investigations.

Fine recovery – The PPSC's National Fine Recovery Program is responsible for recovering outstanding court-ordered fines imposed in relation to various federal offences. Through the efforts of eight fine recovery units located in PPSC regional offices, the Program recovered over $5 million in fines and closed over 1,600 files in 2010-11. The monetary value of fines recovered decreased by 15% compared to the previous year given that 95% of the fines collected were in the amount of $5,000 or less. However, 56% of the total amount recovered stemmed from fines of $5,000 and up. Some 150 individuals were incarcerated for refusing to pay their fines despite their ability to pay. Since the national program was first introduced in 2002, more than $56 million in outstanding fines has been recovered.

Lessons Learned

The PPSC participated in the evaluation of the IMET initiative coordinated by Public Safety and Emergency Preparedness Canada. The evaluation, which was completed in 2010, concluded that there is an ongoing need to prevent, investigate and prosecute serious capital market fraud in Canada. The evaluation also found that considerable, sustained effort is still required by the RCMP and the PPSC to monitor the progress of investigations and prosecutions, and identify the reasons for any extraordinary delays. The PPSC worked with the RCMP to develop and implement improved case monitoring procedures.

Program Activity #3: Internal Services

2010-11 Financial Resources ($ millions)			2010-11 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending[10]	Planned	Actual	Difference
25.2	25.1	21.3	128	117	11

Performance Summary and Analysis of Program Activity

Internal Services are comprised of a range of corporate sectors performing activities that support the above two program activities and ensure that the PPSC's corporate accountabilities are met. Some key performance highlights for 2010-11 included the following:

Internal Audit – The PPSC continued with the development of its internal audit function. An internal audit of the account verification framework, conducted and published in 2010-11, is available at http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s030.

Finance and Acquisitions – In 2010-2011, in addition to its ongoing commitments, the Directorate implemented the Comprehensive Land Claim Agreements procurement requirements; took over responsibility for account verification at Headquarters as well as materiel management, both of which had previously been handled by the Department of Justice; developed a succession plan for key positions; rolled out the government-wide expenditure management tool; and implemented changes to the chart of accounts and salary forecast system.

Corporate Counsel – The Office of the Corporate Counsel (OCC) provided advice on the proposed new federal *Code on Values and Ethics*, and the conditions that apply to employee participation in political activities. The OCC also conducted extensive research that ultimately will lead to the implementation of a Code of Conduct for the PPSC, and directly supported the development of a strategy for corporate and legal risk management activities.

10 The major variance between the total authorities and the actual spending relates to unused appropriations (i.e., lapsed funds) for the relocation of offices.

Lessons Learned

The PPSC participates in the annual Management Accountability Framework (MAF) assessment led by the Treasury Board Secretariat. The MAF process helps departments and agencies measure how well they meet expectations for good public service management. In 2010-11, the PPSC's assessment was positive overall and indicated that its management capacity was improving. The PPSC is moving forward with a MAF action plan focused on increasing its capacity in management processes, particularly in regard to financial management and control, procurement, integrated risk management, information management and investment planning.

SECTION III - SUPPLEMENTARY INFORMATION

The financial highlights presented within this DPR are intended to serve as a general overview of the PPSC's financial position and operations. The PPSC's financial statements are available on its website at: http://www.ppsc-sppc.gc.ca/eng/pub/index.html

Financial Highlights

Condensed Statement of Financial Position
As at March 31, 2011 ($ millions)

	% Change	2010-11	2009-10
Total assets	-8%	24,377	26,595
Total liabilities	-3%	39,812	40,993
Equity of Canada	7%	-15,435	-14,398
Total	-8%	24,377	26,595

Condensed Statement of Operations
For the year ended March 31, 2011 ($ millions)

	% Change	2010-11	2009-10
Total expenses	-0.3%	173,549	174,024
Total revenues	30%	17,063	13,157
Net cost of operations	-3%	156,486	160,867

Financial Highlights Charts

Total assets were $24.4 million at the end of 2010-11, a decrease of $2.2 million over the previous year's assets of $26.6 million. Fifty-one percent of the assets are amounts due from the Consolidated Revenue Fund for expenditures incurred for other government departments.

Total revenues increased by 30% from 2009-10. The majority of the revenues (98%) stemmed from the recovery of costs from departments and agencies for prosecutorial work under regulatory statutes that relate to the protection of the environment, natural resources, as well as economic and social health.

Assets by Type

- Due from Consolidated Revenue Fund (51%)
- Receivables and advances (27%)
- Tangible capital assets (22%)

Revenues

- Regulatory offences and economic crime prosecution program (98%)
- Drug, *Criminal Code*, and terrorism prosecution program (2%)

Total liabilities were $39.8 million at the end of 2010-11, a decrease of $1.2 million over the previous year's liabilities of $41 million. The decrease is due to a greater number of payments being processed, thereby reducing accounts payable. Accounts payable and accrued liabilities represent the largest portion (48%) of liabilities.

Total expenses for the PPSC were $173.5 million[11] in 2010-11, which decreased by less than 1% over the previous year. The majority of funds ($114.4 million or 66%) were spent in the prosecution of drug, organized crime and *Criminal Code* offences which included expenses on crown agents.

Liabilities by Type

- Accounts payable and accrued liabilities (48%)
- Employee severance benefits (41%)
- Vacation pay and compensatory Leave (11%)

Expenses

- Drug, *Criminal Code*, and terrorism prosecution program (66%)
- Regulatory offences and economic crime prosecution program (18%)
- Internal Services (16%)

Annual Expenditures for Travel, Hospitality and Conferences

As required by the Treasury Board Directive for the Management of Expenditures on Travel, Hospitality and Conferences, information on the PPSC's total annual expenditures for each of travel, hospitality and conferences for the fiscal year ending March 31, 2011 can be found on the PPSC's website at: http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010.

List of Supplementary Information Tables

All electronic supplementary information tables listed below can be found on the Treasury Board of Canada Secretariat's website at: http://www.tbs-sct.gc.ca/dpr-rmr/2010-2011/index-eng.asp

- Sources of Respendable and Non-Respendable Revenue
- Internal Audits
- Horizontal initiatives:
  - Anti-Money Laundering and Anti-Terrorist Financing Regime, led by the Department of Finance
  - Federal Tobacco Control Strategy, led by Health Canada
  - Integrated Market Enforcement Teams Initiative, led by the Department of Public Safety

11 *Total Expenses* include non-cash expenses such as amortization, allowances and accrual expenditures, and are therefore higher than Actual Spending.

- Integrated Proceeds of Crime, led by the Department of Public Safety
- National Anti-Drug Strategy, led by the Department of Justice Canada

SECTION IV - OTHER ITEMS OF INTEREST

Organizational Contact Information

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Additional Information

Public Prosecution Service of Canada Annual Report 2010-2011
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010

Federal Prosecution Service Deskbook
http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg.html

Public Prosecution Service of Canada Annual Report on the
Access to Information Act 2010-2011
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010

Public Prosecution Service of Canada Annual Report on the *Privacy Act* 2010-2011
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010